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## House of Representatives

### RIGHT TO SUE AN ERISA HMO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. NORWOOD) is recognized for 5 minutes.

Mr. NORWOOD. Mr. Speaker, Members on both sides of this aisle have joined together to address one of the most egregious violations of the individual rights upon which our Nation was founded, the right to due process in court.

Since 1974, federally governed managed care insurance plans have enjoyed a near total immunity from any legal accountability for injuring and killing the citizens of this country for monetary gain. No thinking, feeling American can agree to let that stand. I tell my colleagues today, Mr. Speaker, that will not stand.

But, Mr. Speaker, the industry lobbyists who have profited behind the skirts of ERISA are now engaged in a last-ditch fight to deceive the Members of this body and the American public concerning the truth of what we seek. So, tonight, Mr. Speaker, I want to set the record straight.

The bipartisan Consensus Managed Care Improvement Act that I have cosponsored with the gentleman from Michigan (Mr. DINGELL) provides full relief from the travesty of current law while providing full protection for employers and decent insurers against frivolous and vicarious lawsuits.

The managed care lobby has told us that employers could be sued for simply offering a health plan to their employees, they are actually going around saying that, or could be sued just by choosing a particular plan.

Mr. Speaker, read page 60 of the bill beginning on line 33. The bill says, "Does not authorize any cause of action against an employer, or other plan sponsor maintaining the group health plan, or against an employee of such an employer."

One cannot be any clearer than that. Employers cannot be sued for offering

health insurance in our bill or choosing any particular specific plan. Now, the HMO argues that lawyers could find a way around that protection. But the United States Supreme Court has held that "plain meaning" interpretations would prevail. Who do you believe, the lobbyists or the Supreme Court?

There is only one way under this bill that employers can be sued. If an employer decides to do more than offer health insurance, by trying to practice medicine, yes, then they can be sued. If an employer decides to weigh in on a decision of medical necessity, they will be held responsible for that decision, as they should be. But if that employer chooses to stay out of the dispute and leaves the decision up to medically trained professionals, they remain shielded from any type of liability, as they should be.

Read the bill. Page 61, beginning on line 13, an employer can only be sued if, and I quote out of the bill, Mr. Speaker, "The employer's . . . exercise of discretionary authority to make a decision on a claim for benefits covered under the plan . . . resulted in personal injury or wrongful death."

Would a Member of this body like to argue that anyone should be able to wrongfully cause the death of a human being and then be shielded from that responsibility? Let us have that debate. I think they will not argue that.

Under this bill, an employer is free to buy any health plan on the market for their employees and face no liability whatsoever for having done so. If the employer is asked to step into the middle of the dispute between the employee and the health plan, they simply should refuse, leave the matter up to the doctors, and face no liability whatsoever.

The managed care lobby has told us that this bill opens the door for unlimited punitive damages against health plans, with jury awards soaring into the hundreds of millions of dollars.

Read the bill. We have left a way for insurance companies to remain shielded from any punitive damages, not one nickel.

Read the bill. Page 60, beginning on line 13, and I quote again, Mr. Speaker, "The plan is not liable for any punitive, exemplary, or similar damages . . . if the plan or issuer complied with the determination of the external appeal entity." It cannot be any simpler than that.

There is only one option left the HMO lobby to defeat the legislation: Distort the issue, scare the employers into believing it. We know it, and they know it.

I believe that truth and justice will prevail during next week's vote on this issue. No amount of lies, Mr. Speaker, no amount of threats will deter the Members of this body who know the truth from moving forward on this issue.

Mr. Speaker, I ask my fellow Members who support this bill to spread the truth to those who may not know it yet. This evil cannot be allowed to stand.

Mr. Speaker, I look forward to seeing my colleagues next week on the floor of this House when the truth will come forward as to what is happening to health care in the United States of America.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. NORWOOD. I yield to the gentleman from Michigan.

□ 1745

IN AGREEMENT WITH RIGHT TO SUE AN ERISA  
HMO

Mr. DINGELL. Mr. Speaker, I first want to say that I have worked in this place for a long time, and I have worked with a lot of people. None have been more steadfast, courageous, harder working, more able or more dedicated on the matters upon which we work, and I want to commend the gentleman from Georgia and thank him.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

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I want to make the observation that I hope my colleagues will have listened to the gentleman from Georgia, because what he is talking about is people who are desperately in need of the protection he and I seek to provide. I want to point out that what he is seeking to do here is to assure that employers who do not intrude into the every day management of the particular fund that is set up for the health care and for the procurement of health care are absolutely protected against liability. The gentleman is totally correct in that. And the only time that an employer would incur a liability under this legislation is if he had actively intervened against the beneficiary.

And so I want to first commend the gentleman. Second of all, I want to urge my colleagues to listen to him. He has been speaking great wisdom. He has also been speaking of justice and decency and something that the health care industry has not always been providing to the recipients of health care. It is an extremely important point in this legislation.

Honest and decent employers have nothing to fear, and HMOs which have been denying people the health care to which they are entitled under the contract do have something to fear. And, indeed, they should. They are the folks that I happen to be after.

#### IMPORTANCE OF GOVERNMENT FUNDING OF SCIENCE IN TODAY'S WORLD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. EHLERS) is recognized for 5 minutes.

Mr. EHLERS. Mr. Speaker, I have been giving a series of comments in special orders about the importance of science in today's world, and also the importance of government funding of science, because the question often asked is why should the Federal Government be spending good taxpayers money to conduct scientific research.

One very obvious reason: Over half of the economic growth of this country comes from the scientific research which we have funded in the past. I can give numerous examples, and I have given some in the past, but let me just point out a few tonight.

When computers were first developed, one of the difficulties was how computers could talk to each other. That was resolved fairly readily. But then some bright individuals in the Defense Advance Research Project Agency began wondering how can we network a large number of computers. And then, beyond that, how can we connect the networks so that we have what is really an internet, a connection or a network of networks. That was not easily resolved, but it has had far-reaching implications when it was solved.

The basic method is to create what is called a packet of information that travels along the telephone lines from one computer to another. There is a

certain protocol of what is in that packet, what is at the lead, what is in the middle, what is at the end, so that you can keep track of these. After that was developed, the interest of the Defense Advance Research Project Agency was to tie together all the military laboratories in the United States. That eventually came to include other laboratories. And then the NSF got involved and developed what was called the NSF net, which broadened it to all universities. And that was the basis from which the Internet was developed.

Now, who can question the value of the Internet today? So many people use it for so many purposes, we have trillions of dollars flowing on the Internet every day, indicating the commerce we have between banks and other places. If an individual's check is deposited by electronic fund transfer, that money was probably transferred over the Internet.

I have been told, and I have not had a chance to check this for myself to be certain it is true, but I have been told that there is more money transferred electronically over the Internet each day than we have in the entire Federal budget for a year. That illustrates some of the importance of the Internet for this and for various other purposes.

One little sidelight that might be interesting to my colleagues. As we developed these packets to go on the Internet, someone got the bright idea why not do the same thing with telephone information. In other words, treat voice information just as we treat computer information. So today, when we place a telephone call, our voices are chopped up and put in all these little packets, they travel over telephone lines by various routes, and when they reach their destination they are unscrambled, and no one on either end knows that this has happened. That has greatly increased the capacity of our telephone lines for carrying voice and data transmissions.

Mr. Speaker, I now yield some time to my scientific colleague, the gentleman from New Jersey (Mr. HOLT), who is a fellow physicist. We often work on science issues together. This is obviously a bipartisan issue, and I am pleased to yield to him.

Mr. HOLT. Mr. Speaker, I thank my friend from Michigan. It is a great pleasure to talk about these things. We do not have occasion to talk about them enough here on the floor of the House.

First, I would like to recognize how much the gentleman does in support of science and science education. We all appreciate it.

I would like to just add two comments to what the gentleman talked about. One is the importance of research that we do not necessarily recognize the value of at first. Many of our colleagues here in this chamber, many of our family members have had MRIs, magnetic resonance imaging. Most people do not realize this came out of studies on nuclear magnetic res-

onance, on which I believe the gentleman has worked in the past. This was once regarded as pure research but has turned out to be of very practical value.

The return on investment in science is enormous.

#### AFFORDABLE PRESCRIPTION DRUGS ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, before I begin my special order on prescription drugs, I yield to the gentleman from New Jersey (Mr. HOLT) if he would like to finish his thought.

Mr. HOLT. Mr. Speaker, I thank my friend and just say that the point I wanted to make was that economists argue about what is the yield on research, the economic yield on dollars spent on research, but they argue about whether it is 20 percent or 30 percent, not whether it is 2 or 3 percent. And it is a sound investment.

Mr. BROWN of Ohio. Reclaiming my time, Mr. Speaker, 2 weeks ago the Office of Personnel Management announced that premiums for the Federal Employees Health Benefit Plan would increase by 9 percent next year, the third straight year of large increases. Last month, final figures were in for the number of seniors that will be dropped from their Medicare managed care plan come January 1: 395,000 elderly Americans. Last year, 400,000 were dropped. Most of the remaining plans are curtailing or eliminating prescription drug benefits.

Those are the numbers. Here are the stories. Last month, I received a letter from a 71-year-old widow in Sheffield Lake, Ohio, who had taken a part-time job to help pay for her prescription drugs. Until United Health Care pulled out of her county and left her without a health plan, she had some drug coverage, but just one of her medications, lipitor, absorbed the entire benefit.

I spoke with a woman recently in Elyria, Ohio, who spends \$350 out of her \$808 monthly Social Security check on prescription drugs.

What is the common thread here? The high cost of prescription drugs. Prescription drug spending in the U.S. increased 84 percent between 1993 and 1998. The American public is right to wonder why we are not doing something about that in this Congress. The truth is, what has held us back is a threat. The drug industry says if we do not leave drug prices alone, they will not produce any new drugs.

I believe it is time we use market forces, and by that I mean good old-fashioned competition, to challenge that threat. We can introduce more competition in the prescription drug market and still foster medical innovation.

We need information to examine the industry's claims that U.S. prices are